

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

WILLIAM DAVIDSON,

Plaintiff,

- v -

Civ. No. 8:10-CV-1397
(DNH/RFT)

ADVISORY OF CIVIL (THE COURT) N.Y.C. TO
CAUSE PREJUDICE,

Defendant.

APPEARANCES:

OF COUNSEL:

WILLIAM DAVIDSON

Plaintiff, *Pro Se*

07-A-4879

Clinton Correctional Facility

P.O. Box 2001

Dannemora, New York 12929

RANDOLPH F. TREECE

United States Magistrate Judge

REPORT-RECOMMENDATION and ORDER

On November 18, 2010, *pro se* Plaintiff William Davidson submitted a Complaint along with an Application to Proceed *In Forma Pauperis* (IFP). Dkt. No. 1, Compl; Dkt. No. 2, Mot. for IFP. After reviewing those documents, this Court issued a Report-Recommendation wherein we granted the IFP Application, but recommended that Plaintiff be afforded an opportunity to amend his Complaint to

avoid dismissal. Dkt. No. 4. The basis for that recommendation was Plaintiff's failure to satisfy basic pleading requirements. On January 6, 2011, the Honorable David N. Hurd, United States District Judge, adopted our recommendations in total and directed Plaintiff to submit an amended complaint. Dkt. No. 5. On January 13, 2011, the Court received a document from Plaintiff, purporting to be an Amended Complaint. Dkt. No. 6.

Upon reviewing the Amended Complaint, we find that not only did Plaintiff fail to cure the deficiencies in his prior pleading, but also, this new pleading is even more incoherent.¹ Having already provided Plaintiff an opportunity to amend, and determining that his amended pleading is unintelligible, we find that dismissal is appropriate. *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988) ("Dismissal . . . is usually reserved for those cases in which the complaint is so confused, ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised." (citation omitted)).

WHEREFORE, it is hereby

RECOMMENDED, that this action be **dismissed** due to Plaintiff's failure to state a claim and to comply with Federal Rules of Civil Procedure 8 and 10; and it is further

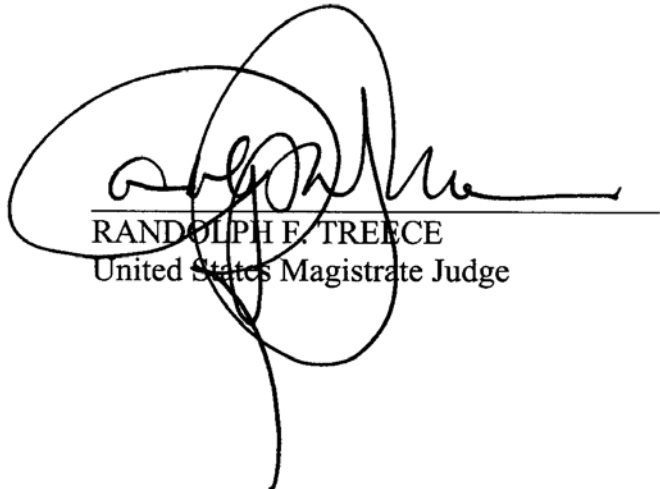
¹ Plaintiff also submitted a document, postmarked January 18, 2011, which this Court is unable to decipher. Dkt. No. 7.

ORDERED, that the Clerk serve a copy of this Report-Recommendation and Order on Plaintiff by certified mail.

Pursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14) days within which to file written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court. **FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN (14) DAYS WILL PRECLUDE APPELLATE REVIEW.**

Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993) (citing *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15 (2d Cir. 1989)); *see also* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72, 6(a), & 6(e).

Date: January 21, 2011
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge